

## **AMENDMENTS TO THE CLAIMS:**

The following is a complete listing of the claims.

- 1-56. (Cancelled).
57. (Previously amended) A fertile, transgenic plant, the genome of which has been altered through the addition of a functional genetic element comprising a gene that encodes a CryET29 crystal protein or peptide comprising SEQ ID NO: 2, wherein said gene confers upon said plant a phenotypic trait that is not found in the parentage of said plant.
58. (Cancelled).
59. (Currently amended) A cell Cells obtained from the transgenic plant of claim 57.
60. (Currently amended) Progeny of the plant of claim 57, wherein the progeny comprise the functional genetic element.
61. (Currently amended) A seed Seeds from the progeny of claim 60, wherein the seed comprises the functional genetic element.
62. (Currently amended) The transgenic plant of claim 57, wherein said functional genetic element comprises a promoter and 3' region operatively linked to said gene.
- 63-70. (Cancelled).
71. (New) A transgenic plant comprising a *cryET29* transgene as contained in plasmid pEG1298 which is contained in *Escherichia coli* strain having accession number NRRL B-21624.
72. (New) A transgenic plant comprising a transgene encoding a CryET29 crystal protein as produced in *Bacillus thuringiensis* strain having accession number NRRL B-21582.